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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,469	09/19/2003	Katell Decamp	43869.046100	8868
32361	7590	11/29/2005	EXAMINER	
GREENBERG TRAURIG, LLP MET LIFE BUILDING 200 PARK AVENUE NEW YORK, NY 10166			KYLE, MICHAEL J	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/666,469

Applicant(s)

DECAMP, KATELL

Examiner

Michael J. Kyle

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (U.S. Patent No. 4,630,983) in view of Takahashi et al ("Takahashi", U.S. Patent No. 5,850,676). Fischer discloses a peg (1-5), an inertial unit (12) having a sleeve (13), and a rack (11). The peg (1-5) comprises an anterior portion (5) that is introduced, with clearance, into a sleeve (13) of the component (12). A posterior fixing part (between 1 and 5, in figure 1) is inserted in the sleeve without clearance. The posterior fixing part is designed to compensate for clearance and has a diameter greater than a diameter of the sleeve. The peg is slotted (3). Examiner notes the limitation "intended to be push-fitted simultaneously" is an intended use recitation and is given little patentable weight. As long as the prior art is capable of being used in the intended manner, then the prior art is considered to meet the limitation. Additionally, the limitation "push-fitted simultaneously" is a method limitation in article claim, and is given little patentable weight. As long as the prior art meets the structural limitations of the claims, then the prior art is considered capable of being made by the claimed method. Fischer shows only one assembly of a peg and sleeve, not a plurality, as claimed.
3. Takahashi teaches a plurality of assemblies (10, 46, and 48, see figure 2) comprising an inertial unit (44), a rack (42), pegs (10), and sleeves (48). Using a plurality of peg and sleeve

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assemblies, as opposed to a single peg and sleeve to fasten one part to another creates a stronger connection. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Fischer, such that a plurality of pegs and sleeves, as taught by Takahashi, are used to fasten to the rack (11) to the inertial unit (12). Using more fasteners provides more support for the rack on the inertial unit. The plurality of peg and sleeve assemblies are capable of being simultaneously push-fitted.

4. With respect to claims 3 and 4, Fischer discloses he peg has lateral flats (on 8) and the posterior fixing portion has a cylindrical part.

5. With respect to claims 5 and 6, Fischer discloses the posterior fixing portion has a part that that is inserted with clearance (where 1 meets the portion having the slot 3). That part is frustoconical and situated behind the cylindrical part. Examiner considers both the portions to the left and the right of the frustoconical part to be cylindrical portions.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer in view of Takahashi, as applied to claim 6 above, further in view of King, Jr. ("King", U.S. Patent No. 3,962,775). Fischer and Takahashi fail to disclose the peg to be coated with a graphite deposit.

7. King teaches the use of graphite on an expansion, in a sleeve, such as graphite, as a lubricant (column 12, lines 4-15). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Fischer and Takahashi, such that a graphite deposit is included on the peg of Fischer, to lubricate the peg, thereby allowing easier insertion into the sleeve.

***Response to Arguments***

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8. Applicant's arguments filed September 6, 2005, have been fully considered but they are not persuasive.

9. Applicant questions what type of inertial unit can be a piece of masonry or wooden lath, and what type of rack can be a piece of masonry or wooden lath. Examiner notes that the limitations of an "inertial unit" and "rack" are given no further limitations other than merely being mentioned by name in the claims. The term "inertial" derived from "inertia" means "indisposition to motion, exertion, or change", as defined by Merriam-Webster's Collegiate Diction Tenth Edition. A piece of masonry has an indisposition to motion, and can fairly be considered an inertial unit as it meets each limitation of the claimed inertial unit. Similarly, Merriam-Webster's defines a "rack" as "a framework, stand, or grating, on or in which articles are placed". The wooden lath is a framework in which an article, the peg, is placed. Additionally, a lath is defined as a "a thin narrow strip of wood...as a groundwork for slates, tiles, or plaster. Thus, slates, tiles, and plaster are articles attached to the lath. From this, it is clear the wooden lath can fairly be considered a rack, as it meets each limitation of the claimed rack.

10. Applicant argues that application and objective of Fischer are different than that of applicant. Examiner notes that the peg of Fischer meets all of the limitations of the claimed peg.

11. Applicant argues that the limitation "Which are intended to be push-fitted one into the other to fix the inertial unit to the rack has not been considered. Examiner addressed this in the body of the rejection, and also asserts that it would have been clear to anybody of ordinary skill in the art that the peg if push-fitted to fix the inertial unit to the rack, form Fischer's figure 6.

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Further, Applicant characterizes the peg of Fischer as a “nail”. A nail is push fitted when fastening objects together.

12. Applicant argues there is no allusion to an inertial unit, a rack, pegs, and sleeves in Takahashi. Examiner notes that Takahashi is used as a teaching that using a plurality of fasteners is old and well known in the art, and is recognized by those having ordinary skill in the art. Additionally, the elements designated as the inertial unit, rack, pegs, and sleeves by the examiner, in Takahashi, meet the claimed limitations of those features.

13. Applicant appears to be improperly reading limitations from the specification into the claims with regard to the inertial unit and rack. Examiner has discussed above how the elements of Fischer can be fairly read as meeting the limitations of the claimed inertial unit and rack.

14. Applicant states the limitation “a plurality of assemblies of a peg and a sleeve of an inertial unit and a rack” means a peg is par of either an inertial unit or rack and a sleeve of the other one. Examiner notes that what applicant states this limitation means is different from what is in the claim. The subject matter argued by applicant is not claimed.

### ***Conclusion***

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk

  
ROBERT J. SANDY  
PRIMARY EXAMINER